

AMENDED IN SENATE MAY 15, 2007

SENATE BILL

No. 439

Introduced by Senator Calderon

February 21, 2007

An act to amend Section 15342 of the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 439, as amended, Calderon. Write-in candidates.

Existing law requires that a ballot for a qualified write-in candidate be counted if, on specified voting systems, the candidate's name is written on the ballot in the blank space provided and the voting space next to the write-in space, if provided, is marked according to voting instructions. It further requires that, for other voting systems, a ballot for a write-in candidate, if otherwise qualified, be counted if the name is written in the manner described in the voting instructions.

This bill would require a liberal construction of these provisions in the event of a *manual* recount to ensure that a ballot is counted if the voter's intent can be determined, regardless of whether the voter has literally complied with the voting instructions.

This bill would state that this change is declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 15342 of the Elections Code is amended
2 to read:

1 15342. Any name written upon a ballot for a qualified write-in
2 candidate, including a reasonable facsimile of the spelling of a
3 name, shall be counted for the office, if it is written in the blank
4 space provided and voted as specified below:

5 (a) For voting systems in which write-in spaces appear directly
6 below the list of candidates for that office and provide a voting
7 space, no write-in vote shall be counted unless the voting space
8 next to the write-in space is marked or slotted as directed in the
9 voting instructions.

10 (b) For voting systems in which write-in spaces appear
11 separately from the list of candidates for that office and do not
12 provide a voting space, the name of the write-in candidate, if
13 otherwise qualified, shall be counted if it is written in the manner
14 described in the voting instructions.

15 (c) The use of pressure-sensitive stickers, glued stamps, or any
16 other device not provided for in the voting procedures for the
17 voting systems approved by the Secretary of State to indicate the
18 name of the write-in candidate are not valid, and a name indicated
19 by these methods shall not be counted.

20 (d) Neither a vote cast for a candidate whose name appears on
21 the ballot nor a vote cast for a write-in candidate shall be counted
22 if the voter has indicated, by a combination of marking and writing,
23 a choice of more names than there are candidates to be nominated
24 or elected to the office.

25 (e) All valid write-in votes shall be tabulated and certified to
26 the elections official on forms provided for this purpose, and the
27 write-in votes shall be added to the results of the count of the
28 ballots at the counting place and be included in the official returns
29 for the precinct.

30 (f) In the event of a *manual* recount, this section shall be
31 liberally construed to ensure that each ballot is counted if the intent
32 of the voter can be determined, regardless of whether the voter has
33 complied with the voting instructions.

34 SEC. 2. The amendment of Section 15342 of the Elections
35 Code made by this act does not constitute a change in, but is
36 declaratory of, existing law.